

# Attachment 6

Mottes Drillman

June 11, 2009

New York, NY

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1 UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF NEW YORK  
3 Civil Action Number 06-CV-2621 LTS (DFE)

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6 SECURITIES AND EXCHANGE COMMISSION :

7 Plaintiff, :

8 vs. :

9 ANDREAS BADIAN, et al., :

10 Defendants. :

11 - - - - -

12

13

14 Thursday, June 11, 2009

15 2:25 p.m.

16

17 Videotaped Deposition of MOTTES DRILLMAN,  
18 taken by Plaintiff, pursuant to Notice, held at the  
19 offices of The Securities and Exchange Commission,  
20 Three World Financial Center, New York, New York,  
21 before Patricia Mulligan Carruthers, Certified  
22 Shorthand Reporter and Notary Public of the State of  
23 New Jersey and Notary Public of the State of New  
24 York.

25

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<p>1 M. DRILLMAN</p> <p>2 at Refco?</p> <p>3 MR. ROSS: Objection.</p> <p>4 A. I don't remember.</p> <p>5 Q. Isn't it true that you and Mr. Spinner</p> <p>6 jointly met with representatives of Rhino Advisors</p> <p>7 while you were at Refco seeking their business?</p> <p>8 MS. SCHECHTMAN: Objection.</p> <p>9 MR. ROSS: Now, we're at --</p> <p>10 MR. GUIDO: He's at Refco, and he and</p> <p>11 Mr. Spinner --</p> <p>12 Q. The question is: Did you meet with any</p> <p>13 representatives of Rhino Advisors seeking business</p> <p>14 from any of Rhino Advisors' clients?</p> <p>15 MR. ROSS: Objection to form.</p> <p>16 A. Yes.</p> <p>17 Q. And who did you meet with at Rhino</p> <p>18 Advisors?</p> <p>19 A. Thomas Badian.</p> <p>20 Q. Anyone else?</p> <p>21 A. I don't recall. There were other</p> <p>22 individuals, but I don't remember their names.</p> <p>23 Q. And did you, at those meetings, solicit</p> <p>24 business from Thomas Badian and inform him that his</p> <p>25 clients could short stock at Refco Capital Markets?</p>	<p>1 M. DRILLMAN</p> <p>2 THE VIDEOGRAPHER: This marks the</p> <p>3 beginning of Tape Number 2 in the videotape</p> <p>4 deposition of Mottes Drillman. The time is 3:39.</p> <p>5 We're back on the record.</p> <p>6 MR. GUIDO: Before we continue with the</p> <p>7 questions, yesterday, at the deposition of</p> <p>8 Mr. Graham, audiotapes were played for him, and</p> <p>9 counsel -- who was here at the time -- agreed that it</p> <p>10 would be advantageous to mark, on the record, a copy</p> <p>11 of what was played for the witness, so that we would</p> <p>12 have disks of those conversations that each of us</p> <p>13 could review afterwards, and so, today, I would like</p> <p>14 to mark, as Exhibit 85, those clips that are on CDs.</p> <p>15 (Whereupon, Exhibit 85 is marked for</p> <p>16 identification by the reporter.)</p> <p>17 MR. GUIDO: For the court reporter, here</p> <p>18 is one set to be marked as Exhibit Number 85 -- and,</p> <p>19 I guess, if you could put stickers on it?</p> <p>20 MR. ROSS: May I make an inquiry? So this</p> <p>21 is the excerpts of the tapes, as it relates to</p> <p>22 Mr. Drillman -- or an excerpt of the tapes as it</p> <p>23 relates to others as well?</p> <p>24 MR. GUIDO: The tapes that were played for</p> <p>25 Mr. Graham that he testified about.</p>
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<p>1 M. DRILLMAN</p> <p>2 for an indefinite period of time?</p> <p>3 MR. ROSS: Objection to form.</p> <p>4 A. No.</p> <p>5 Q. At any time, did you inform Thomas Badian</p> <p>6 of that fact?</p> <p>7 A. I don't recall.</p> <p>8 MR. ROSS: Objection.</p> <p>9 Q. Did Mr. Spinner, at that meeting, inform</p> <p>10 Thomas Badian that Rhino Advisors' clients could</p> <p>11 short stock for an indefinite period of time in</p> <p>12 accounts at Refco Capital Markets?</p> <p>13 MR. ROSS: Objection?</p> <p>14 MS. SCHECHTMAN: Objection.</p> <p>15 I'm not sure what meeting you're talking</p> <p>16 about.</p> <p>17 A. Yeah. I don't recall any -- I have no</p> <p>18 recollection of that at all.</p> <p>19 MR. ROSS: Is it convenient time to take a</p> <p>20 minute break?</p> <p>21 MR. GUIDO: Sure.</p> <p>22 THE VIDEOGRAPHER: This is the end of Tape</p> <p>23 Number 1 in the videotape deposition of Mottes</p> <p>24 Drillman. The time is 3:27. We are off the record.</p> <p>25 (Whereupon, a recess is taken.)</p>	<p>1 M. DRILLMAN</p> <p>2 MR. ROSS: So this is just the stuff that</p> <p>3 Mr. Graham testified about and not any other tapes</p> <p>4 for right now, any other conversations --</p> <p>5 MR. GUIDO: There are conversations on</p> <p>6 those tapes that involve other people, and Mr. Graham</p> <p>7 testified about the identity of people that he could</p> <p>8 identify, from the voices on those tapes.</p> <p>9 MS. SCHECHTMAN: It's just a record of</p> <p>10 clips played at Mr. Graham's deposition.</p> <p>11 MR. ROSS: Okay. So you don't have this.</p> <p>12 This was created last night, as a courtesy, by the</p> <p>13 SEC?</p> <p>14 MS. SCHECHTMAN: That's correct.</p> <p>15 MR. ROSS: Thank you very much.</p> <p>16 Q. Mr. Drillman, now, we're going to go to</p> <p>17 the exciting part of the deposition. We're going to</p> <p>18 play some audiotapes for you and ask you some</p> <p>19 questions about that. I would like to first start</p> <p>20 with the audiotape that is from February 21st, 2001.</p> <p>21 It's in the range of 10:01:56 --</p> <p>22 MR. ROSS: Beg your pardon. Someone</p> <p>23 coughed. Say again, please. 10?</p> <p>24 MR. GUIDO: 10:01:56 to 10:04:03. It's in</p> <p>25 the Alderson transcript of that date, at Page 131,</p>

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1 M. DRILLMAN  
 2 Line 8, through 132, Line 11.  
 3 (Whereupon, the audio clip is played.)  
 4 Q. Do you recognize any of the voices on that  
 5 audio clip?  
 6 A. Yes.  
 7 Q. Whose voices do you recognize?  
 8 A. Andreas Badian; what appears to be also  
 9 Danny Graham; and someone that I believe sounds like  
 10 myself, but I can't tell you for sure.  
 11 MR. GUIDO: Mr. Fisher, will you play back  
 12 the tape?  
 13 (Whereupon, the audio clip is played.)  
 14 MR. GUIDO: Stop right there.  
 15 Q. Is that last voice Andreas Badian?  
 16 A. Last voice?  
 17 Q. The last sentence, "Start selling it  
 18 here." Is that Andreas?  
 19 A. It sounds like Andreas.  
 20 MR. GUIDO: Pick up again, please.  
 21 (Whereupon, the audio clip is played.)  
 22 MR. GUIDO: Stop there.  
 23 Q. Is that you saying, "We've got about 175."  
 24 No, but we've got it covered?"  
 25 MR. ROSS: Well, I think it sounds like --

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1 M. DRILLMAN  
 2 It sounds like two different conversations, but --  
 3 MR. GUIDO: Well --  
 4 Q. At the end, it says, "We've got about  
 5 175."  
 6 MR. ROSS: Is that your voice?  
 7 A. Yes. That's my voice.  
 8 Q. Is it your voice that says, "No, but we've  
 9 got it covered?"  
 10 A. Yes.  
 11 MR. GUIDO: Pick up again, Mr. Fisher.  
 12 (Whereupon, the audio clip is played.)  
 13 MR. GUIDO: Stop right there.  
 14 Q. Did you hear that voice?  
 15 A. Yes.  
 16 Q. Whose voice was that?  
 17 A. I don't know.  
 18 MR. GUIDO: Pick up again, Mr. Fisher.  
 19 (Whereupon, the audio clip is played.)  
 20 MR. GUIDO: Stop right there, please.  
 21 Q. Whose voice is that?  
 22 A. Mine.  
 23 MR. GUIDO: Pick up again, please.  
 24 (Whereupon, the audio clip is played.)  
 25 MR. GUIDO: Stop.

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1 M. DRILLMAN  
 2 Q. Is that your voice -- Is that your voice  
 3 on the last clip?  
 4 MR. ROSS: The ones that says, "I want him  
 5 to do that"? Yes?  
 6 MR. GUIDO: Pick up again.  
 7 (Whereupon, the audio clip is played.)  
 8 Q. Do you recognize Mr. Spinner's voice on  
 9 that tape?  
 10 A. No.  
 11 Q. Who is Cliff?  
 12 A. Cliff was a trader at Pond -- Pond  
 13 Equities.  
 14 Q. Does this refresh your recollection that  
 15 you gave instructions to people to place orders for  
 16 Cliff at Pond?  
 17 MR. ROSS: Objection to form.  
 18 You can answer.  
 19 A. Does it refresh my recollection? No.  
 20 Q. No? Did you give instructions to anyone  
 21 at Refco to place orders with Cliff at Pond?  
 22 MR. ROSS: Independent of hearing this?  
 23 Q. Just did you ever, I'm asking you what  
 24 you remember.  
 25 MR. ROSS: Taking this --

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1 M. DRILLMAN  
 2 MR. GUIDO: I'm not talking about this  
 3 specific conversation. When I am, I will indicate.  
 4 A. So I don't recall.  
 5 MR. GUIDO: Let's go to a clip 2-21-2001.  
 6 It's in the range of 12:56:16 to 12:57:09. It's at  
 7 Alderson Transcript Page 302, Line 4, through Page  
 8 302, Line 21; and, before you play that, Mr. Fisher,  
 9 I would like to clarify for Mr. Ross what those  
 10 ranges are that --  
 11 MR. ROSS: Please. Thank you.  
 12 MR. GUIDO: Because some of us have been  
 13 living with this for a long time.  
 14 Those are -- When I give the date and I  
 15 give that range, those are the ranges that are on the  
 16 clips that nice systems -- recording equipment  
 17 generated off of the mikes that it placed at Refco,  
 18 and so that's how they appeared, so we identify these  
 19 clips, starting with that; and then the Alderson tape  
 20 range -- or transcript range that I give --  
 21 identifies the portion of -- that has been extracted  
 22 by the SEC to play in this proceeding, so it is not  
 23 that entire range that we're listening to.  
 24 It's only a portion to it, and the  
 25 reference to the a Alderson transcript is a

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1 M. DRILLMAN  
 2 subportion.  
 3 MR. ROSS: Thank you very much.  
 4 MR. GUIDO: Okay. Mr. Fisher?  
 5 (Whereupon, the audio clip is played.)  
 6 Q. Do you recognize the voices on that  
 7 audiotape?  
 8 A. Yes.  
 9 Q. And whose voices are those?  
 10 A. That would be myself and Cliff, the trader  
 11 at Pond.  
 12 Q. Okay. Did you place orders at Pond to  
 13 sell Sedona stock on behalf of Refco?  
 14 MR. ROSS: Asked and answered. Three  
 15 times.  
 16 THE WITNESS: Sorry?  
 17 MR. ROSS: I object. That's the third  
 18 time he's asking the same question. I'm not sure  
 19 what the point of asking that question, again, in the  
 20 context of playing the tape, but he's answered that  
 21 exact question a couple times.  
 22 Q. You may answer the question.  
 23 A. Can you repeat the question please?  
 24 THE REPORTER: "QUESTION: Did you place  
 25 orders at Pond to sell Sedona stock on behalf of

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1 M. DRILLMAN  
 2 Refco?"  
 3 MR. ROSS: And the last two times you said  
 4 you didn't recall the -- independent of what you  
 5 heard the question is do you have knowledge. Not can  
 6 you listen to the tape, like the SEC or myself or  
 7 Ms. Schechtman can.  
 8 A. I don't recall.  
 9 Q. Does the audiotape refresh your  
 10 recollection?  
 11 Does the audiotape refresh your  
 12 recollection that you placed trades to sell Sedona  
 13 stock at Pond on behalf of Amro?  
 14 A. It appears so.  
 15 MR. ROSS: The question is --  
 16 Q. No. I didn't ask you what the tape says.  
 17 I said does the tape refresh your recollection --  
 18 MR. ROSS: Independent of the tape, do you  
 19 now know that you did it; or, when you say it appears  
 20 so, are you just saying that there seems to be a tape  
 21 that indicates --  
 22 A. That's correct. There seems to be a tape  
 23 that indicates it, but I still don't recall, at all,  
 24 the question that you asked me.  
 25 Q. Thank you.

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1 M. DRILLMAN  
 2 MR. GUIDO: Let's play a tape from March  
 3 2nd, 2001, in the range of 1:36:30 through 1:43:42.  
 4 It's the Alderson transcript at Page 259, Line 18,  
 5 through 259, Line 20.  
 6 (Whereupon, the audio clip is played.)  
 7 Q. Do you recognize the voice on that tape?  
 8 A. Yes.  
 9 Q. Who is that?  
 10 A. Myself.  
 11 MR. GUIDO: Now, I would like to play,  
 12 also, from March 3rd, 2001, the range 1:55:18 through  
 13 1:58:35. It's at the Alderson transcript at Page  
 14 268, Line 7, through 269, Line 14.  
 15 (Whereupon, the audio clip is played.)  
 16 Q. Do you recognize any of the voices on that  
 17 audiotape?  
 18 A. Yes.  
 19 Q. Do you recognize the voice that says, "But  
 20 you know what? You could have been more aggressive  
 21 than that because you told me to be aggressive. You  
 22 also have the license to print."  
 23 Do you recognize that voice?  
 24 MR. ROSS: Objection.  
 25 MS. SCHECHTMAN: Objection. To form and

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1 M. DRILLMAN  
 2 mischaracterizes what the tape said.  
 3 MR. GUIDO: I'm sorry. I'm just basing it  
 4 upon my recollection and the court reporter's  
 5 recollection of what was on that tape.  
 6 A. I'm sorry. So --  
 7 Q. The last portion of that tape that talks  
 8 about the aggressiveness. Do you remember that part?  
 9 A. Do I remember that part? No.  
 10 Q. Of the tape.  
 11 A. Yes.  
 12 Q. Okay. Fine. Was that your voice?  
 13 A. Yes.  
 14 Q. Does that refresh your recollection of  
 15 what Amro's traders' strategy was in selling Sedona  
 16 stock in its account at Refco?  
 17 MR. ROSS: Objection.  
 18 MS. SCHECHTMAN: Objection.  
 19 A. No.  
 20 MR. GUIDO: I want to play another tape  
 21 from 3-2 -- March 2nd, 2001. It's in the range  
 22 2:42:20 to 2:58:14. It's Alderson Transcript Page  
 23 302, Line 3, through 302, Line 15.  
 24 MS. GUPTA: Can you read that --  
 25 MR. GUIDO: It's Alderson 302, Line 3 --

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1 M. DRILLMAN  
 2 MS. GUPTA: The start and end time.  
 3 MR. GUIDO: 2:42:20 to 2:58:14.  
 4 MS. SCHECHTMAN: Just to confirm you've  
 5 gone from March 2nd to March 3rd, and this is --  
 6 MR. GUIDO: I'm sorry. Did I say March  
 7 3rd the last time?  
 8 MS. SCHECHTMAN: Yes.  
 9 MR. GUIDO: I'm sorry. That was March  
 10 2nd, also.  
 11 (Whereupon, the audio clip is played.)  
 12 MR. GUIDO: Stop right there.  
 13 Q. Do you recognize any of the voices on that  
 14 portion of the clip?  
 15 A. Yes.  
 16 Q. What voices do you remember?  
 17 A. Danny Graham.  
 18 Q. Danny Graham? Any others?  
 19 A. No.  
 20 MR. GUIDO: Let's pick up.  
 21 (Whereupon, the audio clip is played.)  
 22 Q. Do you recognize any of the voices on that  
 23 last portion of the clip I played for you? Excuse  
 24 me, Mr. Fisher played for you?  
 25 A. No.

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1 M. DRILLMAN  
 2 MR. GUIDO: All right. Let's go to the  
 3 same date, March 2nd, 2001. It's in the range  
 4 1:34:51 to 1:59:22. It's the Alderson transcript of  
 5 that date, Page 233, Line 9, through 235, Line 6.  
 6 (Whereupon, the audio clip is played.)  
 7 Q. Do you recognize any of the voices on that  
 8 audio clip?  
 9 A. Yes.  
 10 Q. What voices do you recognize?  
 11 A. Danny Graham.  
 12 Q. Any others?  
 13 A. No.  
 14 Q. Do you know who the other Danny is that  
 15 Danny Graham is referring to on that audio clip?  
 16 MR. ROSS: Objection.  
 17 A. No.  
 18 MR. GUIDO: Mr. Fisher, will you play back  
 19 up until the first break?  
 20 (Whereupon, the audio clip is played.)  
 21 MR. GUIDO: Stop right there.  
 22 Q. Do you recognize any of the voices on that  
 23 portion of the clip?  
 24 A. Yes.  
 25 Q. Whose voices?

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1 M. DRILLMAN  
 2 A. Danny Graham.  
 3 Q. Could you hear the lower voice?  
 4 A. I could hear a lower voice.  
 5 Q. Is that your voice?  
 6 A. I don't know.  
 7 MR. GUIDO: Let's go to another clip.  
 8 It's March 2nd, 2001. It's in the range 12:14:33  
 9 through 12:19:19. It's the Alderson transcript at  
 10 Page 160, Line 12, through 161, Line 14.  
 11 (Whereupon, the audio clip is played.)  
 12 Q. Do you recognize the voices on that audio  
 13 clip?  
 14 A. Yes.  
 15 Q. What voices do you recognize?  
 16 A. Myself.  
 17 Q. What about the other voice?  
 18 A. I don't recognize whose voice that is.  
 19 Q. Is it your voice that says, "Hey. There's  
 20 a bid at Sedona"?  
 21 A. Yes.  
 22 Q. Is it you that says, "Hey. I want one of  
 23 those things"?  
 24 A. Yes. I would like to know what that was  
 25 that I wanted, but...

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1 M. DRILLMAN  
 2 MR. GUIDO: Let's go to another clip.  
 3 It's also March 2nd, 2001. It's in the range  
 4 12:39:19 through 12:47:14. It's at the Alderson  
 5 transcript, 144, Line 9 -- I'm sorry, 177, Line 9,  
 6 through 178, Line 3.  
 7 (Whereupon, the audio clip is played.)  
 8 Q. Do you recognize the voices on that  
 9 audiotape?  
 10 A. Yes.  
 11 Q. What voices do you recognize?  
 12 A. Danny Graham.  
 13 Q. Do you recognize your own voice?  
 14 A. No.  
 15 MR. GUIDO: Now I want to go to March 6,  
 16 2001. It's the range of 9:21:06 through 9:21:27.  
 17 It's at the Alderson transcript of that date, Page  
 18 56, Line 3, through Page 56, Line 8.  
 19 (Whereupon, the audio clip is played.)  
 20 Q. Do you recognize that voice?  
 21 A. Yes.  
 22 Q. Whose voice is it?  
 23 A. Mine.  
 24 MR. GUIDO: Let's go to March 8, 2001 --  
 25 MS. SCHECHTMAN: Wait, Ken. What was the

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<p>1 M. DRILLMAN 2 date of the last clip? 3 MR. GUIDO: 3-6) 4 MS. SCHECHTMAN: Thank you.) 5 MR. GUIDO: The next one is March 8, 2001. 6 It's in the range 12:13:44 through 12:17:52. It's at 7 the Alderson Transcript Page 91, Line 14, through 93, 8 Line 10. 9 (Whereupon, the audio clip is played.) 10 Q. Do you recognize the voices on that clip? 11 A. Yes. 12 Q. Who are they? 13 A. Myself and my partner. Jay Spinner. 14 MR. GUIDO: I would like to play for you 15 the clip from March 19th, 2001, in the range 3:34:57 16 through 3:41:18. It's at the Alderson transcript at 17 259, Line 14, through 259, Line 16. 18 (Whereupon, the audio clip is played.) 19 Q. Do you recognize the voice on that clip? 20 A. Yes. 21 Q. Whose voice is that? 22 A. Myself. 23 MR. GUIDO: I would like to play for you 24 the clip from March 20, 2001, in the range 2:38:38 25 through 2:54:41. It's the Alderson transcript of</p>	<p>1 M. DRILLMAN 2 Q. Any others? 3 A. Barbara Johnston. 4 Q. Anyone else? 5 A. Ari Rabinowitz. 6 Q. Do you know what Barbara was referring to 7 when she says, "They're hitting us with 248, 259 8 shares on a buy-in"? 9 A. Are you asking me what that means -- 10 Q. Yeah. 11 A. -- or specific to -- 12 MR. ROSS: He's asking you about this 13 conversation. 14 A. This conversation? I don't remember this 15 conversation. 16 Q. Do you know what -- Does it refresh your 17 recollection of what the term "buy-in" means? 18 MR. ROSS: You asked him what buy-back 19 means. He didn't know, and then you asked him the 20 question with the word "buy-in," in it. You never 21 asked him if he knew what a buy-in meant. 22 A. Yes. 23 Q. What does it mean? 24 A. When a -- You fail to deliver a stock 25 after a certain point of time, CNS will acquire you</p>
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<p>1 M. DRILLMAN 2 that date, at Page 192, Line 9, through 193, Line 22. 3 (Whereupon, the audio clip is played.) 4 Q. Do you recognize the voices on that 5 audiotape? 6 A. I need that audiotape replayed, please. 7 MR. GUIDO: Replay the tape. 8 (Whereupon, the audio clip is played.) 9 Q. Do you recognize any of the voices on that 10 audio clips? 11 A. Yes. 12 Q. Who? 13 A. Danny Graham. 14 Q. Any others? 15 A. My voice, vaguely, sounds familiar. 16 Q. I would like to play for you a clip dated 17 March 20th, 2001. It's in the range 3:41:37 through 18 3:43:26. It's at the Alderson transcript of that 19 date, Page 264, Line 3, through 268, Line 3. 20 (Whereupon, the audio clip is played.) 21 Q. Do you recognize the voices on that 22 audiotape? 23 A. Yes. 24 Q. Whose voices do you recognize? 25 A. Myself.</p>	<p>1 M. DRILLMAN 2 to buy-in the stock. 3 Q. Does this conversation relate your 4 recollection that Refco was required to buy-in stock 5 that Amro had shorted? 6 MR. ROSS: Objection! 7 MS. SCHECHTMAN: Objection! 8 A. No. 9 MR. GUIDO: I would like to go to -- 10 MR. ROSS: The witness wanted to ask me a 11 question. Can I lean over -- 12 MR. GUIDO: You can go off the record, if 13 you want. 14 MR. ROSS: One second. Yes. Please. 15 THE VIDEOGRAPHER: Going off the record. 16 The time is 4:19. 17 (Whereupon, a recess is taken.) 18 THE VIDEOGRAPHER: Back on the record. 19 The time is 4:20. 20 MR. GUIDO: In the future, any time you 21 want to consult with your counsel, just indicate, and 22 we'll go off the record for you. 23 A. Thank you. 24 MR. ROSS: Thank you. 25 Q. The next clip is March 21st, 2001. It is</p>

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<p>1 M. DRILLMAN</p> <p>2 in the range 3:04:56 through 3:06:53. It is in the</p> <p>3 Alderson Transcript Page 137, Line 7, through -- I</p> <p>4 don't know if -- This says 109, Line 9. I suspect</p> <p>5 it's 139, Line 9.</p> <p>6 (Whereupon, the audio clip is played.)</p> <p>7 Q. Do you recognize any of the voices on that</p> <p>8 audio clip?</p> <p>9 A. Yes.</p> <p>10 Q. What voices do you recognize?</p> <p>11 A. Myself; and pardon the language on it.</p> <p>12 Q. Pardon?</p> <p>13 A. Pardon the language on it.</p> <p>14 Q. Do you recognize Danny Graham's voice?</p> <p>15 A. I would have to play that again.</p> <p>16 MR. GUIDO: Play the first page.</p> <p>17 (Whereupon, the audio clip is played.)</p> <p>18 Q. Did you hear the sentence, "See nice big</p> <p>19 bid on Sedona"? Did you hear --</p> <p>20 MR. ROSS: Objection. I didn't.</p> <p>21 MS. SCHECHTMAN: Objection.</p> <p>22 A. No.</p> <p>23 MR. GUIDO: Let's go to March 21st, 2001,</p> <p>24 in the range from 3:16:08 through 3:17:56. It's at</p> <p>25 the Alderson transcript of that date, Page 142, Line</p>	<p>1 M. DRILLMAN</p> <p>2 Q. No?</p> <p>3 MR. GUIDO: I want to play the tape from</p> <p>4 March 26, 2001, also, for you. That is in the range</p> <p>5 of 2:05:59 through 2:07:45. It's at the Alderson</p> <p>6 Transcript 283, 03, through 285, Line 7.</p> <p>7 (Whereupon, the audio clip is played.)</p> <p>8 Q. Do you recognize the voices on that audio</p> <p>9 clip?</p> <p>10 A. Yes.</p> <p>11 Q. Who are the voices?</p> <p>12 A. Myself.</p> <p>13 Q. And who else?</p> <p>14 A. Andreas Badian.</p> <p>15 Q. Does that refresh your recollection that</p> <p>16 the -- Mr. Maggio had raised questions about the</p> <p>17 length of time the shorts had been outstanding in the</p> <p>18 Amro account at Refco?</p> <p>19 MR. ROSS: Objection.</p> <p>20 MS. SCHECHTMAN: Objection.</p> <p>21 A. No.</p> <p>22 Q. Do you know what the symbol AFFI stands</p> <p>23 for?</p> <p>24 A. No.</p> <p>25 Q. I want to play for you the tape March 26,</p>
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<p>1 M. DRILLMAN</p> <p>2 7, through 142, Line 9.</p> <p>3 (Whereupon, the audio clip is played.)</p> <p>4 Q. Do you recognize that voice?</p> <p>5 A. Not really.</p> <p>6 Q. All right. Let's go to March 26, 2001,</p> <p>7 and the range is 1:57:15 through 1:59:44. It's at</p> <p>8 the Alderson transcript, at Page 275, Line 5, through</p> <p>9 276, Line 16.</p> <p>10 (Whereupon, the audio clip is played.)</p> <p>11 Q. Do you recognize the voices on that audio</p> <p>12 clip?</p> <p>13 A. Yes.</p> <p>14 Q. What voices do you recognize?</p> <p>15 A. Myself.</p> <p>16 Q. Any others?</p> <p>17 A. Barbara Johnston.</p> <p>18 Q. Do you recall that Mr. Maggio raised</p> <p>19 questions about outstanding shorts in Amro's</p> <p>20 account --</p> <p>21 MR. ROSS: Objection.</p> <p>22 Q. -- on or about March 26th, 2001?</p> <p>23 MR. ROSS: Objection.</p> <p>24 MS. SCHECHTMAN: Objection.</p> <p>25 A. No.</p>	<p>1 M. DRILLMAN</p> <p>2 2001. It's in the range 9:05:06 through 9:10:07, and</p> <p>3 it is the Alderson transcript, at Page 51, Line 15,</p> <p>4 through Page 58, Line 5.</p> <p>5 (Whereupon, the audio clip is played.)</p> <p>6 Q. Do you recognize the voices on that clip?</p> <p>7 A. Yes.</p> <p>8 Q. What voices do you recognize?</p> <p>9 A. Myself.</p> <p>10 Q. Who's the other voice?</p> <p>11 A. Ari Rabinowitz.</p> <p>12 Q. I'm sorry. I missed that.</p> <p>13 A. Ari Rabinowitz.</p> <p>14 Q. I would like to play you another tape of</p> <p>15 3-26-01 at 9:35:45 through 9:36:26. This is at the</p> <p>16 Alderson Transcript Page 84, Line 3, through Page 85,</p> <p>17 Line 3.</p> <p>18 (Whereupon, the audio clip is played.)</p> <p>19 Q. Do you recognize the voices on that clip?</p> <p>20 A. Yes.</p> <p>21 Q. Whose voices do you recognize?</p> <p>22 A. Myself.</p> <p>23 Q. Any others?</p> <p>24 A. Ari Rabinowitz.</p> <p>25 Q. Do you know what the reference is you make</p>

17 (Pages 62 to 65)



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New York, NY

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1 M. DRILLMAN  
 2 to a meeting -- that you just came out of a meeting?  
 3 A. No.  
 4 MR. GUIDO: Let's go to March 26, 2001.  
 5 It's at 10:00:12 through 10:06:12. It's at the  
 6 Alderson Transcript Page 127, Line 3, through 127,  
 7 Line 7.  
 8 (Whereupon, the audio clip is played.)  
 9 Q. Do you recognize the voices on that clip?  
 10 A. Yes.  
 11 Q. What voices do you recognize?  
 12 A. Jay Spinner.  
 13 Q. Do you recognize your own voice?  
 14 A. No.  
 15 MR. GUIDO: Will you play it back again?  
 16 Mr. Fisher?  
 17 (Whereupon, the audio clip is played.)  
 18 Q. Do you recognize your voice on that tape?  
 19 A. No.  
 20 Q. Was there another Matt at Refco while you  
 21 were there?  
 22 A. I don't recall.  
 23 MR. GUIDO: Let's go to March 26, 2001.  
 24 It's the timeframe 2:00:52 through 2:08:27. It's at  
 25 the Alderson Transcript Page 142, Line 18, through

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1 M. DRILLMAN  
 2 143, Line 2.  
 3 (Whereupon, the audio clip is played.)  
 4 Q. Do you recognize the voice on that audio  
 5 clip?  
 6 A. Yes.  
 7 Q. Whose voice is it?  
 8 A. Myself.  
 9 Q. Now, I would like to go to another clip,  
 10 March 26, 2001. It's at 10:04:21 through 10:24:29.  
 11 It's the Alderson Transcript 146, Line 17, through  
 12 155, Line 15.  
 13 (Whereupon, the audio clip is played.)  
 14 Q. Do you recognize any of the voices on that  
 15 clip?  
 16 A. Yes.  
 17 Q. What voices do you recognize?  
 18 A. Danny Graham.  
 19 Q. Do you recognize Andreas Badian?  
 20 A. Yes.  
 21 Q. Do you recognize your own voice?  
 22 A. No.  
 23 Q. I would like to play for you a tape from  
 24 3-26-01. It's in the range 10:04:21 through  
 25 10:24:29. It's at the Alderson Transcript 144, Line

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1 M. DRILLMAN  
 2 3, to 144, Line 11.  
 3 (Whereupon, the audio clip is played.)  
 4 Q. Do you recognize any of the voices on that  
 5 clip?  
 6 A. Yes.  
 7 Q. What voices do you recognize?  
 8 A. Danny Graham.  
 9 Q. Do you recognize your own?  
 10 A. No.  
 11 Q. Play clip 3-26-2001, in the range 10:08:50  
 12 through 10:12:27. This is the Alderson Transcript  
 13 Page 158, Line 8, through 161, Line 17.  
 14 (Whereupon, the audio clip is played.)  
 15 MR. GUIDO: Stop right there.  
 16 Q. Do you recognize any of the voices on that  
 17 portion of the clip?  
 18 A. Yes.  
 19 Q. What voices do you recognize?  
 20 A. Danny Graham.  
 21 Q. Any other voices?  
 22 A. Myself.  
 23 Q. Any other voices?  
 24 A. Jay Spinner.  
 25 Q. Do you know what Jay Spinner was referring

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1 M. DRILLMAN  
 2 to when he says, "Drive it to liquidity. Paula said  
 3 the same thing -- you know, of NASDAQ?"  
 4 MS. SCHECHTMAN: Objection.  
 5 MR. ROSS: Objection. I didn't hear that.  
 6 Q. Did you hear that?  
 7 A. I heard it, but I don't know what it's  
 8 referring to.  
 9 MR. GUIDO: Let's go to page -- the  
 10 audiotape of March 26, '01, the range 10:25:00  
 11 through 11:08:23. It's at the Alderson Transcript  
 12 Page 181, Line 4, through 182, Line 15.  
 13 (Whereupon, the audio clip is played.)  
 14 Q. Do you recognize any of the voices on that  
 15 clip?  
 16 A. Yes.  
 17 Q. What voices do you recognize?  
 18 A. Danny Graham.  
 19 Q. Any other voices?  
 20 A. Myself.  
 21 MR. GUIDO: I would like to play a clip of  
 22 April 5th, 2001. It's in the range 11:34:18 through  
 23 11:58:41. It's at the Alderson Transcript Page 57,  
 24 Line 3, through 74, Line 22.  
 25 (Whereupon, the audio clip is played.)

18 (Pages 66 to 69)

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1 M. DRILLMAN  
 2 MR. GUIDO: Stop right there, please.  
 3 Q. Do you recognize the voices on that audio  
 4 clip?  
 5 A. Yes.  
 6 Q. What voices do you recognize?  
 7 A. Jay Spinner.  
 8 Q. Do you recognize your own voice?  
 9 A. Yes.  
 10 Q. Any other voices that you hear?  
 11 A. No.  
 12 Q. Do you know what he was referring to when  
 13 he says, "Of that 50, take my double-prints"? Do you  
 14 know what "double-prints" refers to?  
 15 A. No.  
 16 Q. Did you ever sell stock for Amro through  
 17 Pond and then purchase that --  
 18 MR. GUIDO: Strike that.  
 19 Q. Did you ever sell stock or direct --  
 20 MR. GUIDO: Let me rephrase it again.  
 21 Q. Did you ever direct stock to be sold on  
 22 behalf of Amro through Pond and then cover that  
 23 position out of Amro's account at Refco, in order to  
 24 double-report the quantity of sales that were made by  
 25 Amro?

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1 M. DRILLMAN  
 2 MR. ROSS: Objection.  
 3 MS. SCHECHTMAN: Objection.  
 4 A. Absolutely not.  
 5 MR. GUIDO: Let's take a break for five  
 6 minutes, and then we'll finish up, quickly.  
 7 THE VIDEOGRAPHER: This marks the end of  
 8 Tape Number 2 in the videotaped deposition of Mottes  
 9 Drillman. The time is 4:53. We are off the record.  
 10 (Whereupon, a recess is taken.)  
 11 THE VIDEOGRAPHER: This marks the  
 12 beginning of Tape Number 3 in the videotaped  
 13 deposition of Mottes Drillman. The time is 4:54.  
 14 We're back on the record.  
 15 Q. Were any sales made of stock by the  
 16 Spinner Drillman group at Refco that resulted in the  
 17 double reporting of the sales of the stock that  
 18 remain out of the Amro account?  
 19 MS. SCHECHTMAN: Objection.  
 20 MR. ROSS: Objection.  
 21 A. I need it repeated.  
 22 Q. Let me rephrase -- and that is: Were  
 23 there ever any sales that were made out of the Amro  
 24 account that was maintained by this Spinner Drillman  
 25 group that resulted in double-reporting of the sales

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1 M. DRILLMAN  
 2 out of that account?  
 3 MR. ROSS: Objection to the form. I don't  
 4 know if you can answer, but you can try.  
 5 MS. SCHECHTMAN: Objection to form.  
 6 A. I'm not sure how -- how to answer that  
 7 question because I don't know how a double-print  
 8 would -- would -- would occur.  
 9 Q. Were any sales ever made at the direction  
 10 of anyone as part of the Spinner Drillman group out  
 11 of the Pond account that was reported to the market?  
 12 MR. ROSS: Objection to the form.  
 13 A. I'm sorry. I can't answer. I don't  
 14 understand the question.  
 15 Q. Were any sales made out of the Amro  
 16 account to cover sales that were made by Pond that  
 17 were reported to the market?  
 18 MR. ROSS: Objection.  
 19 A. Sales made by Amro to cover Pond?  
 20 MR. ROSS: Do you want to break it down?  
 21 Q. Sales made out of the Amro account to  
 22 Pond, to cover sales that were made to Pond.  
 23 MR. ROSS: Objection.  
 24 A. The question -- I can't answer that  
 25 question. It -- It doesn't make any sense. You're

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1 M. DRILLMAN  
 2 asking about a sale of Pond and a sale --  
 3 MR. ROSS: If you can't answer --  
 4 Q. I understand.  
 5 How long have you been in this business?  
 6 A. Well, the SEC took care of that a few  
 7 years ago, so...  
 8 Q. What did the SEC do to you?  
 9 A. They placed a civil action on me.  
 10 Q. Okay. Now, do you know what a sale is?  
 11 A. Yes.  
 12 Q. Okay. Were sales made of Sedona stock out  
 13 of Pond's proprietary account?  
 14 A. I have no idea.  
 15 Q. Were sales made out of the Amro account at  
 16 Refco to the Pond proprietary account?  
 17 A. I don't recall.  
 18 MR. GUIDO: Okay. No further questions.  
 19 MR. ROSS: Are you -- I guess the question  
 20 is --  
 21 MS. GUPTA: Well, I think -- My  
 22 understanding is that the parties have agreed that we  
 23 are going to adjourn this and pick up, so that  
 24 counsel for Andreas Badian will have the opportunity  
 25 to question the witness.

19 (Pages 70 to 73)